



HONG KONG MONETARY AUTHORITY

香港金融管理局

Banking Supervision Department

Our Ref.: B10/1C
B1/15C

7 June 2013

The Chief Executive
All authorized institutions

Dear Sir/Madam,

Tax Evasion

Hong Kong is fully committed to safeguard its financial system from being used to facilitate tax evasion and it has long been the position of the Hong Kong Monetary Authority (HKMA) that it is important that Authorized Institutions (AIs) act prudently in the conduct of their customer relationships and do not, knowingly or deliberately, aid and abet tax evasion, or facilitate the laundering of the proceeds of tax evasion, by their customers. The HKMA communicated the clear requirement that AIs should put in place appropriate systems and controls to combat tax evasion in a letter dated 17 June 2009

(<http://www.hkma.gov.hk/eng/key-information/guidelines-and-circulars/circulars/2009/20090617-1.shtml>).

The anti-money laundering and counter financing of terrorism (AML/CFT) legal and regulatory regime for AIs has been further strengthened with the commencement of the Anti-Money Laundering and Counter-Terrorist Financing (Financial Institutions) Ordinance (AMLO)¹ which defines money laundering as *an act that is intended to have the effect of making the proceeds of an indictable offence not to appear so*².

Since tax evasion already constitutes an indictable offence in Hong Kong³, the customer due diligence and record keeping requirements under AMLO should effectively detect and deter the laundering of its proceeds. Furthermore, the statutory requirement⁴ to make a disclosure to the Joint Financial Intelligence Unit, where AIs have knowledge or suspicion of tax evasion related activity, has existed for a number of years.

¹ AMLO, Cap. 615 came into effect on 1 April 2012

² See Schedule 1 of the AMLO, Cap. 615

³ Section 82 of the Inland Revenue Ordinance, Cap. 112

⁴ Section 25A of the Organized and Serious Crimes Ordinance, Cap. 455

To ensure ongoing effectiveness of AML/CFT controls AIs should be alert to new and aggravated money-laundering and terrorist financing threats as well as international and regulatory developments that might affect their operations, such as the designation of tax evasion as a predicate offence for money laundering by the Financial Action Task Force in 2012. AIs should vigilantly assess the possible impact of such developments and the new challenges that they will have to face in terms of AML/CFT.

To address these risks the HKMA has recently⁵ indicated its intention to include tax evasion as one of the focus areas during its forthcoming on-site examinations of AIs' AML/CFT systems and controls. Looking forward, in order to assist AIs in building robust and effective regimes to combat laundering the proceeds of tax crime and to provide guidance to AIs in respect of good and poor practices in managing and mitigating tax evasion related risks, one of the themes of this year's annual AML/CFT seminars will be tax evasion. Further details of these seminars, which will be held later in 2013, will be circulated in the near future.

To ensure sufficient preparation for these initiatives, AIs should ensure that measures to combat tax evasion are deliberated by senior management in the committee having responsibility for the oversight of AML/CFT. Adequate records should be kept in the meeting minutes of these deliberations, which should include how the AI identifies and assesses tax crime related risks through existing customer due diligence, the implementation of control measures that are commensurate with the risks identified, staff training and assurance measures and how the AI is monitoring international developments in this area.

If you have any questions, please contact Mr Stewart McGlynn on 2878 1095 or Mr Gavin Cheung on 2878 8305.

Yours faithfully,

Lawrence Cheung
Acting Executive Director (Banking Supervision)

⁵ High-level seminar on AML held on 12 April 2013
(<http://www.hkma.gov.hk/media/eng/doc/key-information/guidelines-and-circular/2013/20130425e1.pdf>)